S.B.CIVIL WRIT PETITION NO.1888/2001

Sanntok Singh
v.
Board of Revenue & Ors.

Date of Order :: 18th July, 2007

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. Sudhir Sharma]
Mr. Mahaveer Pareek] for the petitioner.
Mr. S.N.Tiwari, Dy.Govt.Advocate.

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By this petition for writ a challenge is given to the judgment dated 5.12.2000 passed by the Board of Revenue for Rajasthan, Ajmer in Appeal Ceiling No.134/96/Ganganagar. By the judgment aforesaid learned Board of Revenue affirmed the judgment dated 6.11.1996 passed by the Additional Collector, Sriganganagar while exercising powers under Section 15(2) of the Rajasthan Imposition of Ceiling on Agricultural Holdings Act, 1973 (hereinafter referred to as “the Act of 1973”).

In brief, facts of the case are that initially under Chapter-III-B of the Rajasthan Tenancy Act, 1955 (hereinafter referred to as “the Act of 1955”) ceiling proceedings were initiated and decided by judgment dated 7.6.1972 holding that the petitioner was not having any surplus land. The Government of Rajasthan while exercising its powers under Section 15 (2) of the Act of 1973 reopened the ceiling proceedings and that was decided by the Additional

Collector by judgment dated 6.11.1996 with a finding of having 22.4 bighas surplus land with assessee. By way of filing an appeal under Section 23(2) of the Act of 1973 the petitioner assailed validity of the judgment dated 6.11.1996 and that came to be rejected by the Board of Revenue under judgment dated 5.12.2000.

While assailing validity of the orders impugned, the contention of counsel for the petitioner is that reopening of the ceiling case itself was without jurisdiction being time barred. According to the petitioner power to reopen ceiling cases is required to be exercised within a period of six years from commencement of the Act of 1973. The Act of 1973 came into force on 1.1.1973, as such ceiling case in present controversy could have been reopened prior to 1.1.1979.

The counsel for the petitioner substantiated his contention by a Division Bench Judgment of this Court in the case of Dhanraj & Ors. v. State of Rajasthan, 1995 RRD 115, wherein this Court after considering all the provisions of the Act of 1973 held as under:-

> "This submission is ill-founded and unsustainable in law. A perusal of the Amending Act will show that the amendments were made with retrospective effect and it

> was provided that the provisions shall be deemed to have been incorporated in the Act from the date of commencement of the Amending Act, therefore, the amendment 15 of the Rajasthan Imposition of Ceiling on Agricultural Holdings Act, 1973 will have to be read as amended, as the amendment is deemed to have been always made. The established cannons interpretation of statute require that plain meaning should be given to the words and phrases occurring in statute and consequently the words 'within 6 years of the commencement of this Act' must necessarily mean commencement of the Ceiling Act, 1973 and not the Amending Act so considered. The notice issued on 7th Feb. 1980 is obviously beyond 6 years. The period of 6 years has been expired on 1.1.79, the State Government, therefore, had no power or jurisdiction under Section 15 of the Ceiling Act to direct reopening of the cases of the petitioners. In these three petitions, the notices and proceedings in persuance thereto are thus illegal and void for total lack of jurisdiction, the same are, therefore, quashed and set aside"

In the present case too the notice to re-decide and reopen ceiling case was issued after period of six years from the date of commencement of the Act of 1973, therefore, on that day the Government had no power or jurisdiction to do so.

The writ petition, therefore, is allowed and the orders impugned dated 6.11.1996 passed by the

Additional Collector, Sriganganagar and then order dated 5.12.2000 passed by the Board of Revenue, Rajasthan, Ajmer are quashed. The order dated 29.8.1981 issued by the State Government to re-decide and reopen the ceiling case against the petitioner is also quashed.

No order to costs.

(GOVIND MATHUR),J.

Kkm/ps.